

**Senate Bill No. 534**

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Passed the Senate      August 31, 1999

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*Secretary of the Senate*

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Passed the Assembly      August 26, 1999

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 1999, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Sections 1102, 1102.1, 1102.2, and 1102.9 of, and to add Sections 798.75.5, 1102.3a and 1102.6d to, the Civil Code, and to amend Sections 18025 and 18046 of the Health and Safety Code, relating to mobilehomes and manufactured homes.

## LEGISLATIVE COUNSEL'S DIGEST

SB 534, Dunn. Mobilehomes and manufactured homes.

Existing law makes provisions for the disclosure of specified information upon the transfer of residential real property applicable to the resale of a manufactured home or mobilehome, which are classified as personal property, on or after January 1, 2000.

This bill would revise and recast these disclosure requirements. Among other things, the bill would provide for a transfer disclosure form to be used for specified manufactured homes and mobilehomes, and would make related changes. It would also make technical changes in those provisions.

This bill would also incorporate changes made by AB 594 to Section 1102.2 of the Civil Code if both bills become operative and this bill becomes operative last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 798.75.5 is added to the Civil Code, to read:

798.75.5. (a) The management shall provide a prospective homeowner with a completed written disclosure form concerning the park described in subdivision (b) at least three days prior to execution of a rental agreement or statement signed by the park management and the prospective homeowner that the parties have agreed to the terms and conditions of the rental agreement. The management shall update the information on the disclosure form annually, or, in the



event of a material change in the condition of the mobilehome park, at the time of the material change in that condition.

(b) The written disclosure form shall read as follows:



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SEC. 2. Section 1102 of the Civil Code is amended to read:

1102. (a) Except as provided in Section 1102.2, this article applies to any transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Except as provided in Section 1102.2, this article shall apply to a resale transaction entered into on or after January 1, 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety Code, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, which manufactured home or mobilehome is classified as personal property and intended for use as a residence.

(c) Any waiver of the requirements of this article is void as against public policy.

SEC. 3. Section 1102.1 of the Civil Code is amended to read:

1102.1. (a) In enacting Chapter 817 of the Statutes of 1994, it was the intent of the Legislature to clarify and facilitate the use of the real estate disclosure statement, as specified in Section 1102.6. The Legislature intended the statement to be used by transferors making disclosures required under this article and by agents making disclosures required by Section 2079 on the agent's portion of the real estate disclosure statement, in transfers subject to this article. In transfers not subject to this article, agents may make required disclosures in a separate writing. The Legislature did not intend to affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections noted on the disclosure form set forth in Section 1102.6 or 1102.6a, and that nothing in this article



shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079.

It is also the intent of the Legislature that the delivery of a real estate transfer disclosure statement may not be waived in an “as is” sale, as held in *Loughrin v. Superior Court* (1993) 15 Cal. App. 4th 1188.

(b) In enacting Chapter 677 of the Statutes of 1996, it was the intent of the Legislature to clarify and facilitate the use of the manufactured home and mobilehome transfer disclosure statement applicable to the resale of a manufactured home or mobilehome pursuant to subdivision (b) of Section 1102. The Legislature intended the statements to be used by transferors making disclosures required under this article and by agents making disclosures required by Section 2079 on the agent’s portion of the disclosure statement and as required by Section 18046 of the Health and Safety Code on the dealer’s portion of the manufactured home and mobilehome transfer disclosure statement, in transfers subject to this article. In transfers not subject to this article, agents may make required disclosures in a separate writing. The Legislature did not intend to affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections noted on the disclosure form set forth in Section 1102.6 or 1102.6a or to affect the existing obligations of the parties to a manufactured home or mobilehome purchase contract, and nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079 or the duty of a manufactured home or mobilehome dealer or salesperson pursuant to Section 18046 of the Health and Safety Code.

It is also the intent of the Legislature that the delivery of a mobilehome transfer disclosure statement may not be waived in an “as is” sale.



(c) It is the intent of the Legislature that manufactured home and mobilehome dealers and salespersons and real estate brokers and salespersons use the form provided pursuant to Section 1102.6d. It is also the intent of the Legislature for sellers of manufactured homes or mobilehomes who are neither manufactured home dealers or salespersons nor real estate brokers or salespersons to use the Manufactured Home/Mobilehome Transfer Disclosure Statement contained in Section 1102.6d.

SEC. 4. Section 1102.2 of the Civil Code is amended to read:

1102.2. This article does not apply to the following:

(a) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code and transfers which can be made without a public report pursuant to Section 11010.4 of the Business and Professions Code.

(b) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

(c) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has





acquired the real property by a deed in lieu of foreclosure, transfers to the legal owner or lienholder of a manufactured home or mobilehome by a registered owner or successor in interest who is in default, or transfers by reason of any foreclosure of a security interest in a manufactured home or mobilehome.

(d) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(e) Transfers from one coowner to one or more other coowners.

(f) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(g) Transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation or from a property settlement agreement incidental to that judgment.

(h) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(i) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(j) Transfers or exchanges to or from any governmental entity.

SEC. 4.5. Section 1102.2 of the Civil Code is amended to read:

1102.2. This article does not apply to the following:

(a) Transfers which are required to be preceded by the furnishing to a prospective transferee of a copy of a public report pursuant to Section 11018.1 of the Business and Professions Code and transfers which can be made without a public report pursuant to Section 11010.4 of the Business and Professions Code.

(b) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in the administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by



a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

(c) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure, transfers to the legal owner or lienholder of a manufactured home or mobilehome by a registered owner or successor in interest who is in default, or transfers by reason of any foreclosure of a security interest in a manufactured home or mobilehome.

(d) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust. This exemption shall not apply to a transfer if the trustee is a natural person who is sole trustee of a revocable trust and he or she is a former owner of the property or an occupant in possession of the property within the preceding year.

(e) Transfers from one coowner to one or more other coowners.

(f) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(g) Transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation or from a property settlement agreement incidental to that judgment.



(h) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

(i) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.

(j) Transfers or exchanges to or from any governmental entity.

SEC. 5. Section 1102.3a is added to the Civil Code, to read:

1102.3a. (a) The transferor of any manufactured home or mobilehome subject to this article shall deliver to the prospective transferee the written statement required by this article, as follows:

(1) In the case of a sale, or a lease with an option to purchase, of a manufactured home or mobilehome, involving an agent, as defined in Section 18046 of the Health and Safety Code, as soon as practicable, but no later than the close of escrow for the purchase of the manufactured home or mobilehome.

(2) In the case of a sale, or lease with an option to purchase, of a manufactured home or mobilehome, not involving an agent, as defined in Section 18046 of the Health and Safety Code, at the time of execution of any document by the prospective transferee with the transferor for the purchase of the manufactured home or mobilehome.

(b) With respect to any transfer subject to this section, the transferor shall indicate compliance with this article either on the transfer disclosure statement, any addendum thereto, or on a separate document.

(c) If any disclosure, or any material amendment of any disclosure, required to be made pursuant to subdivision (b) of Section 1102, is delivered after the execution of an offer to purchase, the transferee shall have three days after delivery in person or five days after delivery by deposit in the mail, to terminate his or her offer by delivery of a written notice of termination to the transferor.



SEC. 6. Section 1102.6d is added to the Civil Code, to read:

1102.6d. Except for manufactured homes and mobilehomes located in a common interest development governed by Title 6 (commencing with Section 1351), the disclosures applicable to the resale of a manufactured home or mobilehome pursuant to subdivision (b) of Section 1102 are set forth in, and shall be made on a copy of, the following disclosure form:



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SEC. 7. Section 1102.9 of the Civil Code is amended to read:

1102.9. Any disclosure made pursuant to this article may be amended in writing by the transferor or his or her agent, but the amendment shall be subject to Section 1102.3 or 1102.3a.

SEC. 8. Section 18025 of the Health and Safety Code is amended to read:

18025. (a) Except as provided in subdivisions (b) and (c), it is unlawful for any person to sell, offer for sale, rent, or lease within this state, any manufactured home or any mobilehome, commercial coach, or special purpose commercial coach manufactured after September 1, 1958, containing structural, fire safety, plumbing, heat-producing, or electrical systems and equipment unless the systems and equipment meet the requirements of the department for those systems and that equipment and the installation of those systems and that equipment. The department may adopt rules and regulations that are reasonably consistent with recognized and accepted principles for structural, fire safety, plumbing, heat-producing, and electrical systems and equipment and installations, respectively, to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe structural, fire safety, plumbing, heat-producing, and electrical systems, equipment and installations.

(b) All manufactured homes and mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.).

(c) The sale of used manufactured homes and mobilehomes by an agent licensed pursuant to this part shall be subject to Section 18046.

SEC. 9. Section 18046 of the Health and Safety Code is amended to read:

18046. (a) An “agent” for purposes of this section and Section 18025, means a dealer or salesperson licensed pursuant to this part, or a real estate broker or salesperson



licensed pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code.

(b) A “seller” for the purposes of this section and Section 18025 means the lawful owner of the manufactured home or mobilehome offering the home for sale. For purposes of this section and Section 18025, the exemptions enumerated by Section 1102.2 of the Civil Code shall be applicable to the transfer of a manufactured home or mobilehome.

(c) The sale of used manufactured homes or mobilehomes by a real estate broker or salesperson licensed under Division 4 (commencing with Section 10000) of the Business and Professions Code shall be subject to Section 2079 of the Civil Code.

(d) It is the duty of a dealer or salesperson, licensed under this chapter, to a prospective buyer of a used manufactured home or mobile home, subject to registration pursuant to this part, to conduct a reasonably competent and diligent visual inspection of the home offered for sale and to disclose to that prospective buyer all facts materially affecting the value or desirability of the home that an investigation would reveal, if that dealer or salesperson has a written contract with the seller to find or obtain a buyer or is a dealer or salesperson who acts in cooperation with others to find and obtain a buyer. Where a transfer disclosure statement is required pursuant to subdivision (b) of Section 1102 of the Civil Code, a dealer or salesperson shall discharge that duty by completing the agent’s portion of the transfer disclosure statement that a seller prepares and delivers to a prospective buyer pursuant to subdivision (b) of Section 1102 of the Civil Code. If no transfer disclosure statement is required, but the transaction is not exempt under Section 1102.2 of the Civil Code, a dealer shall discharge that duty by completing and delivering to the prospective buyer an exact reproduction of Sections III, IV, and V of the transfer disclosure statement required pursuant to subdivision (b) of Section 1102 of the Civil Code.



SEC. 10. Section 4.5 of this bill incorporates amendments to Section 1102.2 of the Civil Code proposed by both this bill and AB 594. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 1102.2 of the Civil Code, and (3) this bill is enacted after AB 594, in which case Section 4 of this bill shall not become operative.



Approved \_\_\_\_\_, 1999

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*Governor*

